

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

KUANG MING CHAN,

Plaintiff,

v.

MERRILL LYNCH, PIERCE, FENNER &
SMITH INC., E. STANLEY PECK AND
BRESSLER, AMERY & ROSS, P.C.,

Defendants.

Civil Action 05-cv-4196 (JLL)

**ORDER ADOPTING THE REPORT
AND RECOMMENDATION OF
THE MAGISTRATE JUDGE**

LINARES, District Judge.

This Court had referred the motion of Defendant Bressler, Amery & Ross, P.C. to dismiss pro se Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(1) for lack of jurisdiction over the subject matter to the Honorable Ronald J. Hedges, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B). Having reviewed de novo the Report and Recommendation of April 18, 2006, and having considered Plaintiff's objections to the Report,¹ this Court adopts Magistrate Judge Hedges April 18, 2006 Report and Recommendation as the Opinion of this Court and dismisses Plaintiff's Complaint against all Defendants.


¹As part of Plaintiff's objection, Plaintiff requests that this matter "be remanded to appropriate State Court." (Pl.'s Obj. at 1). The Federal Rules provide: "A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days **after the filing of the notice of removal** under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. 1447(c) (emphasis added). Here, Plaintiff initiated the instant action by filing a Complaint in the district court on August 24, 2005. Therefore, Plaintiff's application for remand under 28 U.S.C. 1447(c) must fail, as this case was not removed to the district court.

IT IS on this 2 day of May, 2006,

ORDERED that the Report and Recommendation of Magistrate Judge Hedges filed April 18, 2006, recommending that the motion of Defendant Bressler, Amery & Ross, P.C. to dismiss [CM/ECF Docket Entry # 6] be granted, is hereby ADOPTED as the findings of fact and conclusions of law of this Court.

This case is closed.

Dated: May 2, 2006



JOSE L. LINARES
UNITED STATES DISTRICT JUDGE